

MACOMB TOWNSHIP BOARD MEETING MINUTES
REGULAR MEETING HELD ON WEDNESDAY, NOVEMBER 28, 2001
AT 7:00 P.M.

LOCATION: MACOMB TOWNSHIP MEETING CHAMBERS
19925 TWENTY-THREE MILE ROAD
MACOMB, MICHIGAN 48042

PRESENT: JOHN D. BRENNAN, SUPERVISOR
NORMAN J. SNAY, CLERK
MARIE E. MALBURG, TREASURER
TRUSTEES: DINO F. BUCCI, JR.
JANET DUNN
KENNETH MEERSCHAERT, JR.
CHARLES OLIVER

Also in attendance: Lawrence Dloski, Township Attorney
Jim VanTiflen, Township Engineer
(Additional attendance record on file with Clerk)

ABSENT: None

CALL MEETING TO ORDER

Clerk SNAY called the meeting to order at 7:00 P.M.

1. ROLL CALL.

Clerk SNAY called roll. All present.

2. PLEDGE OF ALLEGIANCE.

3. APPROVAL OF AGENDA ITEMS (with any addendum's)

Additions:

16a. Request to purchase Munis Printing Enhancement Software.

20a. Temporary Detroit Edison Agreement: New Township Hall.

20b. Agreement regarding Transformer; New Township Hall

Executive Session:

26. Consideration of proposed MAFF (Michigan Association of Fire Fighters) Contract.

MOTION by DUNN seconded by MALBURG to approve agenda as amended.

MOTION carried.

4. APPROVAL OF BILLS.

MOTION by MALBURG seconded by BUCCI to authorize payment of bills as submitted.

5. APPROVAL OF MEETING MINUTES.

MOTION by OLIVER seconded by DUNN to approve the minutes of November 14, 2001 as presented.

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6. DEPARTMENT MONTHLY REPORTS
- A. Macomb County Sheriffs Department.
 - B. Building Department
 - C. Fire Department
 - D. Water/Sewer Department
 - E. Parks and Recreation Department

MOTION by DUNN seconded by MALBURG to receive/file and approve the Department Monthly Reports as a consent agenda.

MOTION carried.

7. Request Approval of Resolution Approving Amended and Restated Building Authority Contract.

Supervisor BRENNAN reviewed the request and stated his recommendation to adopt the resolution.
Public Portion: None

MOTION by DUNN seconded by MEERSCHAEART to grant approval and Adopt the Resolution Approving the Amended and Restarted Building Authority Contract.

TOWNSHIP OF MACOMB
COUNTY OF MACOMB, STATE OF MICHIGAN
RESOLUTION APPROVING AMENDED AND
RESTATED BUILDING AUTHORITY CONTRACT

Minutes of a regular meeting of the Township Board of the Township of Macomb, County of Macomb, State of Michigan, held on the 28th day of November, 2001, at 7:30 o'clock p.m., Eastern Standard Time.

PRESENT: Members John D. Brennan, Norman J. Snay, Marie Malburg, Dino F. Bucci, Jr., Janet Dunn, Kenneth Meerschaert Jr., Charles Oliver.

ABSENT: Members None

The following preamble and resolution were offered by Member DUNN and supported by Member MEERSCHAERT:

WHEREAS, there still exists in and for the Township of Macomb, County of Macomb, Michigan (the "Township"), a need to acquire, construct, furnish and equip certain recreational improvements, together with necessary and related appurtenances, and attachments thereto as described in the Contract, as defined herein (the "Projects"); and

WHEREAS, the Township Board hereby again determines that it is necessary for the public health, safety and welfare of the Township to acquire the Projects for the use of the Township; and

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WHEREAS, Act 31, Public Acts of Michigan, 1948 (First Extra Session), as amended ("Act 31"), provides through the procedures of building authority financing a means for the acquisition, construction and financing of public buildings and facilities, including the Projects; and

WHEREAS, the Township, in accordance with the provisions of the Act 31, as amended, has previously adopted Articles of Incorporation and has established the Macomb Township Building Authority (the "Authority"), with full powers to acquire and construct such buildings and facilities; and

WHEREAS, the Township Board again determines it to be in the best interest of the Township to acquire and finance the Projects through the Authority in accordance with the provisions of the Act 31, as amended; and

WHEREAS, a Limited Tax Full Faith and Credit General Obligation Contract of Lease, dated as of February 28, 2001, (the "Contract") between the Township and the Authority providing for the acquisition, construction and financing of the Projects and such matters as are deemed necessary thereto was prepared; and

WHEREAS, pursuant to the Contract, the Authority issued, as part of its \$10,000,000 2001 Building Authority Recreation and Refunding Bonds, bonds in the amount of \$2,600,000 to pay part of the cost of the **Projects**; and

WHEREAS, an Amended and Restated Limited Tax Full Faith and Credit General Obligation Contract of Lease, dated as of November 28, 2001 (the "Amended Contract") between the Township and the Authority again providing for the acquisition, construction and financing of the Projects and such matters as are deemed necessary thereto has been prepared; and

WHEREAS, the only substantive change in the Amended Contract from the Contract is to increase the number of principal installments over which bonds issued pursuant thereto may mature from 22 to 27 without increasing the amount of bonds that may be issued under such Contract or Amended Contract; and

WHEREAS, in reliance upon the lease payments of the Township payable under the Amended Contract, the Authority intends to issue its building authority bonds in one or more series pursuant to Act 31 for the purpose of paying all or part of the costs of the Projects; and

WHEREAS, prior to issuance of the bonds the Authority and the Township must either receive prior approval of the bonds from the Michigan Department of Treasury or be exempt from prior approval as provided in Chapter III, Section 11 of Act 202, Public Acts of Michigan, 1943, as amended; and

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Township Board hereby determines it to be necessary for the public health, safety and welfare of the Township to continue to acquire the Projects substantially as set forth in the Amended Contract for the use of the Township.
2. The Township Board deems it to be in the best interest of the Township to finance the cost of such facilities through the Authority in accordance with the provisions of Act 31.

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3. The Township Board hereby approves the Amended Contract in substantially the form accompanying this Resolution for the remaining acquisition and financing of the Projects, with such changes or revisions as may be necessary or advisable from time to time prior to the sale of the Bonds as approved by the Supervisor.

4. The Supervisor and the Township Clerk are hereby authorized to execute and deliver to the Authority the Amended Contract approved by this resolution. The Amended Contract shall become effective upon the expiration of 60 days following the date of publication of the Notice, previously published by the Township Clerk, unless, under the provisions of Section 8(b) of Act 31, the effectiveness of the Amended Contract is stayed by reason of the filing of a petition for referendum thereon within 45 days following the date of publication of the Notice and the resultant necessity of prior approval thereof by the qualified electors of the Township. A copy of the Amended Contract shall be placed on file in the office of the Township Clerk and shall be available for public examination.

5. The Township Board does hereby ratify and confirm its covenant in the Amended Contract to levy ad valorem taxes against all taxable property in the Township to the extent necessary to meet the obligations of the Township thereunder in the event revenues from other sources are insufficient for any reason whatsoever. Any such taxes levied to pay the cash rental under the Amended Contract shall be limited as to rate or amount in the manner provided by law, and the Township Board hereby irrevocably pledges the recreational millage approved by the electors and which the Township is authorized to levy through December, 2021 as the primary source of payments by the Township under the Amended Contract.

6. The Supervisor, Clerk and Treasurer are each authorized and directed, on behalf of the Township to take any and all actions, perform any and all acts and execute any and all contracts, applications and other documents as shall be required, necessary or desirable to effect the proper public or private sale, execution and delivery of the Bonds and to implement the Amended Contract, including, but not limited to: applying for prior approval of the Bonds or an exception therefrom, if available, from the Michigan Department of Treasury (the "Department") and making any other filings for waivers or otherwise with the Department respecting the Bonds; applying for ratings on the Bonds and consulting with rating agencies in connection therewith; causing a preliminary and final official statement with respect to the Bonds to be prepared.

7. The Supervisor, Clerk and Treasurer, or any of them, are also hereby authorized and directed, on behalf of the Township, to execute and delivery any documents or contracts necessary and advisable to accomplish the assignment or other conveyance of the Township's leasehold interest in the Site (as defined in the Amended Contract) with respect to the financing contemplated herein.

8. The Township Board shall take actions within its control and it shall not fail to take any action as may be necessary to maintain the exemption of interest on the bonds issued by the Authority for the Projects from gross income for Federal income tax purposes pursuant to the Internal Revenue Code of 1986, as amended (the "Code").

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9. All resolutions and parts of resolutions insofar as the same conflict with the provisions of this resolution be and the same hereby are rescinded.

AYES: Members DUNN, MEERSCHAERT, BUCCI, OLIVER, SNAY, MALBURG, BRENNAN.

NAYS: Members None

NOT VOTING: Members None

RESOLUTION DECLARED ADOPTED.

MOTION carried.

Norman J. Snay
Township Clerk

8. PUBLIC COMMENTS

None

PUBLIC HEARING:

9. Request to Adopt Resolution No.2 Special Assessment District; Retention Basin, Buckingham Village Subdivision No. 1

Public Hearing began at 7:05 p.m.

Supervisor BRENNAN reviewed the resolution.

Public Portion: None

MOTION by MALBURG seconded by MEERSCHAESRT to close the Public Hearing at 7:06 p.m.

MOTION carried.

Larry Dloski, Township Attorney, stated that this is initially an off-site retention basin and in order to access it a Storm Water Drainage System Easement Agreement has been drafted by counsel and recommended as a condition of approving Resolution No.2, require that the Storm Water Drainage System Easement Agreement also be recorded with the Register of Deeds.

MOTION by DUNN seconded by MALBURG to adopt Resolution No.2 to create the Special Assessment District; Retention Basin for Buckingham Village Subdivision No.1. contingent upon receiving the executed and recorded Storm Water Drainage System Easement Agreement.

RESOLUTION NO. 2 – BUCKINGHAM VILLAGE NO.1

Minutes of a regular meeting of the Township Board of the Township of Macomb, County of Macomb, Michigan, held in the Township Hall in said Township on November 28th, 2001, at 7:00 o'clock P.M., Eastern Standard Time.

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PRESENT MEMBERS John D. Brennan, Norman J. Snay, Marie Malburg, Dino F. Bucci Jr., Janet Dunn, Kenneth Meerschaert Jr., Charles Oliver.

ABSENT MEMBERS None

The following preamble and resolution were offered by Member DUNN and supported by Member MALBURG.

WHEREAS, the Macomb Township Board (the "Township") adopted a resolution dated October 24th, 2001, establishing a Special Assessment District subject to a public hearing, for the purpose of maintaining and operating a detention/retention basin (sometimes previously referred to as a "retention basin or "sedimentation basin") described in **Exhibit "A"** attached hereto (the "Basin"); and

WHEREAS, pursuant to Sections 192a(2) and 192a(5) of Act 288, P.A. 1967, as amended, (the "Act"), proper notice having been given, a hearing was held on November 28th, 2001, on creation and maintaining the detention/retention basin, including but not limited to the operation and maintenance, the cutting of grass and the removal of weeds and other debris, by special assessment on the property benefitted thereby. At such hearing, the establishment of the Special Assessment District and defraying the cost of operating and maintaining the detention/retention basin by special assessment was approved; and

WHEREAS, the Special Assessment District consists of proposed Lots 1 through 122, inclusive, Fairways of Buckingham Village Subdivision No.1 (the "Plat"), as approved by the Township, located on a portion of the land described in **Exhibit "B"** attached thereto; and

WHEREAS, Lots 1 through 122, inclusive, within the Plat are benefitted by the detention/retention basin; and

WHEREAS, pursuant to Section 192a(3) of the Act allows the Township to, subject to approval at public hearing, determine the annual cost of the operation and maintenance of the detention/retention basin, determine the annual special assessment levy, prepare a special assessment roll, and direct the spread of the assessment levy on all property in the district.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP BOARD OF THE TOWNSHIP OF MACOMB, MACOMB COUNTY, MICHIGAN:

1. That the Special Assessment District created by resolution on October 24, 2001, and approved at a public hearing on November 28, 2001, is confirmed. The boundaries of this Special Assessment District are more particularly described in Exhibit "B" attached to this Resolution and made a part hereof.

2. That the authority to defray the cost of operating and maintaining the detention/retention basin by special assessment on the property benefitted thereby as adopted by the Township by resolution on October 24, 2001, and approved at a public hearing on November 28, 2001, is confirmed.

3. That in the event the Township has or intends to expend funds for the maintenance and operation of said detention/retention basin, the Township shall prepare a special assessment roll, determine that annual cost of the operation and maintenance of the detention/retention basin, establish an annual special assessment levy, and prepare a plan to spread the assessment levy on each lot within the Special Assessment District be equal to the annual cost of the operation and maintenance of the detention/retention basin multiplied by a fraction, the numerator of which is one (1) and the denominator of which is the total number of lots in the Special Assessment District.

4. That after the determination of the annual cost of the operation and maintenance of the detention/retention basin, the Township shall give notice of and hold a public hearing to approve such costs, the establishment of the annual special assessment levy and the plan to spread the annual special assessment.

5. That the Township Board be and hereby is authorized, empowered and directed to make, execute and deliver any and all instruments, papers and documents and to do and perform any and all acts and things which shall be or become necessary, proper, convenient or desirable to carry out, put into effect or make operative any and all matters and things authorized or permitted to be done in the hereinabove resolution.

AYES: MEMBERS: DUNN, MALBURG, BUCCI, OLIVER, MEERSCHAERT, SNAY, BRENNAN.

NAYS: MEMBERS: None

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RESOLUTION DECLARED ADOPTED.

NORMAN SNAY
MACOMB TOWNSHIP CLERK

MOTION carried.

PLANNING COMMISSION:

10. Technical Change; Woodside Trails Subdivision (Landscape Plan); Located on the north side of 23 Mile Road and approximately 800 feet east of Romeo Plank Road; Section 16; Salvatore DiMercurio, Petitioner. Permanent Parcel No. 08-16-300-017.

Mr. Bernard Lynden, Planning Consultant, gave a brief description of the technical change to the proposed subdivision and stated the recommendation of the Planning Commission to approve the request contingent upon the fulfilling of the standard conditions.

Petitioner Present: Salvatore DiMercurio

Public Portion: None

MOTION by OLIVER seconded by DUNN to approve the Technical Change to the Landscape Plan for Woodside Trials Subdivision contingent upon the fulfilling of the conditions submitted by the Planning Commission.

MOTION carried.

11. Request Extension of Time; Tentative Preliminary Plat; Golfview Estates Subdivision.

Mr. Bernard Lynden, Planning Consultant, reviewed the request and stated the recommendation of the Planning Commission to approve the extension until January 25th, 2003.

Petitioner Present: Craig Duckwitz of AEW

Public Portion: None

MOTION by DUNN seconded by MALBURG to follow the recommendation of the Planning Commission and approve the Extension of Time; Tentative Preliminary Plat for Golfview Estates Subdivision to expire January 25th, 2003.

MOTION carried.

12. Request to Withdraw Tentative Preliminary Plat; Hidden Meadows Subdivision.

Mr. Bernard Lynden, Planning Consultant, reviewed the request and stated the recommendation of the Planning Commission to withdraw the plat.

Public Portion: None

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MOTION by DUNN seconded by MEERSCHAERT to approve the request to withdraw the Tentative Preliminary Plat for Hidden Meadows Subdivision.

MOTION carried.

NEW BUSINESS:

13. Temporary Certificate of Occupancy; Kroger Store; Located on the north west corner of 21 Mile Road and Card Road (Card/21 Shoppes); Section 27. Boutrous Company, Petitioner.

Supervisor BRENNAN reviewed the request and stated that the Township Departments have submitted current recommendations with no objections. He stated that a meeting needs to be held regarding the Final Condominium documents.

Petitioner Present: Robert Kirk
Edward Boutrous and Construction Manager

Public Portion: None

MOTION by DUNN seconded by SNAY to grant the Temporary Certificate of Occupancy for Krogers to expire July 14th, 2002, contingent upon all site improvements be completed within the approval period and that a meeting be held regarding the Final Condominium documents.

MOTION carried.

Mr. Boutrous and Kroger's thanked the Board, Township Department Heads, Township Clerk and the Planning Staff with their help in the project.

14. Release of Monuments and Irons Bond; Hickory Creek Subdivision Phase 1 & 2. GTR Builders, Petitioner.

Supervisor BRENNAN stated the necessary Departments had reviewed the request and were recommending approval.

Petitioner Present: Craig Duckwitz of AEW

Board discussion was held regarding the process of verifying monuments and irons.

Public Portion: None

MOTION by SNAY seconded by MALBURG to authorize the release of the Monuments and Irons Bond for Hickory Creek Subdivision Phases to GTR Builders in the amount of three thousand seventy dollars and 00/100 (\$3,070.00) for Phase 1 and eight hundred seventy five dollars and 00/100 (875.00) for Phase 2.

MOTION carried.

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15. Release of Subdivision Model Permit Bond; Summerfield Estates Subdivision; Lot 251; 20709 Shelton Drive. Royal Tee Homes, Petitioner.

Supervisor BRENNAN stated the necessary Departments had reviewed the request and were recommending approval.

MOTION by OLIVER seconded by MEERSCHART to authorize to release of the Subdivision Model Permit Bond for Lot #251; 20709 Shelton Drive located within the Summerfield Estates Subdivision; Royal Tee Homes in the amount of seven thousand five hundred dollars and 00/100 (\$7,500.00).

MOTION carried.

16. Extension of Conditional Work Hour & Noise Level Variance; Romeo Arm Interceptor in Garfield Road; Jay Dee Contractors, Inc., Petitioner.

Supervisor BRENNAN reviewed the request and stated there had been numerous problems with the site in regards noise due to the moving heavy equipment during night hours.

Board discussion was held regarding the status of the project and length of time remaining to completion.

Public Portion: None

MOTION by DUNN seconded by OLIVER to grant the Extension of Conditional Work Hour & Noise Level Variance; Romeo Arm Interceptor in Garfield Road; Jay Dee Contractors, Inc. for the period of 90 days to expire February 28th, 2002, with the proviso that the matter can be brought back before the Board if necessary.

MOTION carried.

- 16a. Request to purchase Munis Enhancement Software.

Michael Koehs, Deputy Clerk, and Nancy Eckman, Compensation/Finance Supervisor, reviewed the cost estimated submitted by Munis and the additional capability the software would provide.

Board discussion was held regarding details of the capability of the software and security features it will provide.

Public Portion: None

MOTION by MEERSCHAERT seconded by SNAY to grant the request to purchase the Munis Enhancement Software for the maximum cost of twenty one thousand eight hundred twenty dollars and 26/100 (\$21,820.26) or less with the purchase of supplies locally.

MOTION carried.

PARKS AND RECREATION DEPARTMENT:

17. Request to approve Community Recreation Center Schematic Design.

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Martin Piepenbrok, Parks and Recreation Director, reviewed the proposed schematic design and stated that phase I is the current request for approval with phase 2 being designed for possible future consideration.

Board discussion was held regarding the staffing requirements for the facility.

Public Portion: None

MOTION by DUNN seconded by MALBURG to approve the Community Recreation Center Schematic Design as presented.

MOTION carried.

WATER/SEWER DEPARTMENT:

18. Approval of Change Order No.4, Macomb Township Civic Center Utilities and Roads, DiPonio Contracting, MA 98-37.

David Koss, Water/Sewer Superintendent, reviewed the request and stated the change order is the result of additional work required because roadway sub-grade could not be brought up to contract specifications with materials found on site. He concluded that the work was done based on the recommendations from the Road Commission of Macomb County and the Township's Geotechnical Consultant.

Public Portion: None

MOTION by SNAY seconded by MALBURG to authorize the payment of Pay Certificate No.4; Macomb Township Civic Center Utilities and Roads, DiPonio Contracting in the amount of forty two thousand seven hundred seventy eight dollars and 50/100 (\$42,778.50).

MOTION carried.

19. Approval of Pay Certificate No.7, Macomb Township Civic Center Utilities and Roads, DiPonio Contracting, MA 98-37.

David Koss, Water/Sewer Superintendent, stated his office and the Township Engineers of Spalding DeDecker & Assoc. had reviewed the pay certificate and were recommending approval for this payment.

Public Portion: None

MOTION by SNAY seconded by MALBURG to authorize the payment of Pay Certificate No.7; Macomb Township Civic Center Utilities and Roads; DiPonio Contracting, MA 98-37 in the amount of one hundred eleven thousand seven hundred fifty three dollars and 20/100 (\$111,753.20).

MOTION carried.

20. Approval of Pay Certificate No.2; 22 Mile Road/Waldenburg Sanitary Sewer; Lanzo Construction Company, MA 98-19.

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David Koss, Water/Sewer Superintendent, stated his office and the Township Engineers of Spalding DeDecker & Assoc. had reviewed the pay certificate and were recommending approval for this payment.

Board discussion was held regarding re-dug area's of the project and stages of construction.

Public Portion: None

MOTION by DUNN seconded by OLIVER to authorize the payment of Pay Certificate No.2; 22 Mile Road/Waldenburg Sanitary Sewer; Lanzo Construction Company, MA 98-19 in the amount of one hundred fifty five thousand nine hundred ninety three dollars and 65/100 (\$155,993.65).

MOTION carried.

20a. Temporary Detroit Edison Agreement: New Township Hall.

David Koss, Water/Sewer Superintendent, reviewed the request and stated that the temporary service agreement would allow Edison to construct poles to provide temporary power until the underground system is installed and then would remove the poles after completion.

Board discussion was held regarding the location of the poles and feed loops to service the area.

Public Portion: None

MOTION by OLIVER seconded by SNAY to enter into the Temporary Detroit Edison Agreement; New Township Hall.

MOTION carried.

20b. Agreement regarding Transformer; New Township Hall.

David Koss, Water/Sewer Superintendent, reviewed the request and stated the transformer would be located outside the new building and the cost of \$3,922.00 should be paid by the developer. He included that the request is to insure the temporary power and transformer is done in conjunction with the getting the power into the building.

Public Portion: None

Board discussion was held regarding the reimbursement or deduction of the cost of the transformer from the initial contract from Premacon.

MOTION by OLIVER seconded by DUNN to approve the request and enter into the Detroit Edison Line Extension/Transformer Agreement for the total cost of three thousand nine hundred twenty two dollars and 00/100 (\$3,922.00).

MOTION carried.

Larry Dloski, Township Attorney, stated his recommendation that the Township should notify Premacon and be put on notice in writing prior to proceeding of the Townships intent.

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BOARD COMMENTS:

21. Supervisor's Comments
a. Request for Employee Medical Leave Act.

Supervisor BRENNAN reviewed the request and stated that the employee must use personal and vacation time and that sick time is not applicable with the FMLA.

Board discussion was held regarding the type of hours applicable with the FMLA.

Nancy Eckman, Finance/Compensation Supervisor, reviewed a previous request and the Boards decision where sick time was granted with the Act.

Board discussion was held regarding what is required by the ASCME Union Contract in correlation with the FMLA.

MOTION by DUNN seconded by MALBURG to grant the request for the FMLA for Beckie Kavanagh to use personal and vacation time as the federal law allows.

MOTION carried.

- b. Request for an Extension of a Personal Leave from a Water/Sewer Department Employee.

Supervisor BRENNAN reviewed the request and stated it was extension for an additional 2 month personal leave that was already granted beyond her FMLA leave.

MOTION by SNAY seconded by MALBURG to approve the request for an extension of Kimberly Friedman personal leave to expire January 4, 2002.

MOTION carried.

22. Clerk's Comments

Clerk SNAY informed the Board that 5 additional voting precincts, two additional AV counting stations have been added to Macomb Township because of the rapid growth of the community.

23. Treasurer's Comments

None

24. Trustee's Comments

Trustee MEERSCHAERT requested that the review of the Boards salaries be put on the next agenda.

MOTION by MEERSCHAERT seconded by MALBURG to adjourn into Executive Session at 8:03 p.m.

MOTION carried.

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Meeting reconvened at 8:13 p.m.

EXECUTIVE SESSION:

25. Grand Sakwa v Macomb Township

Informational Only

26. Consideration of proposed MAFF (Michigan Association of Fire Fighters) Contract.

MOTION by SNAY seconded by MALBURG to authorize the Township Supervisor and Clerk to execute the MAFF (Michigan Association of Fire Fighters) Agreement.

MOTION carried.

ADJOURNMENT

MOTION by DUNN seconded by MEERSCHAERT to adjourn the meeting at 8:15 p.m.

MOTION carried.

Respectfully submitted,

John D. Brennan, Supervisor

Norman J. Snay, Clerk

Eva M. Mayer, Recording Secretary

NJS/emm